

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL CASE NO. 1:12cv32

WESLEY MARVIN MOORE,)
Plaintiff,)
vs.) ORDER OF REMAND
MICHAEL J. ASTRUE,)
Commissioner of Social Security)
Administration,)
Defendant.)

)

THIS MATTER is before the Court on the Defendant's Assented-To Motion for Entry of Judgment under Sentence Four of 42 U.S.C. § 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. 15]. The Plaintiff consents to the motion.

Sentence four of 42 U.S.C. § 405(g) provides, in pertinent part, that “[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” The Defendant here has moved for reversal of his decision and for remand of this case for further administrative proceedings.

The Court finds that remand is appropriate. See Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991). Upon remand to the Commissioner, the Appeals Council shall instruct the administrative law judge (ALJ) to: (1) update the Plaintiff's medical records; (2) develop the record concerning the Plaintiff's ability to pay for prescribed medical treatment and medications, in accordance with Social Security Ruling ("SSR") 82-59; (3) reconsider the credibility of the Plaintiff's subjective complaints of symptoms and resulting functional limitations in accordance with SSR 96-7p; (4) obtain medical expert testimony as needed to assist in determining the extent of the Plaintiff's physical and/or mental functional limitations; (5) re-assess the Plaintiff's residual functional capacity (RFC) in light of the updated record; (6) conduct a new administrative hearing with vocational expert testimony as needed to clarify the impact of a revised RFC on Plaintiff's ability to perform work at the relevant exertional level; and (7) issue a new decision based on the total record.

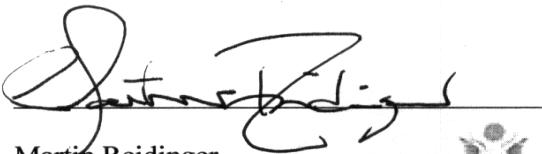
IT IS, THEREFORE, ORDERED that the Defendant's Assented-To Motion for Entry of Judgment under Sentence Four of 42 U.S.C. § 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. 15] is **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and this case is hereby **REMANDED** for further administrative proceedings, consistent with this Order.

The Clerk of Court shall enter a separate Judgment of Remand simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

IT IS SO ORDERED.

Signed: September 18, 2012



Martin Reidinger
United States District Judge

